

MARYLAND GAZETTE.

T H U R S D A Y, M A R C H 17, 1803.

From the AMERICAN:

BY REQUEST.

Messrs. Pechin and Frailey,

THE lengthy publication in your paper of the 23d ultimo, of A Friend to Candour; from the different conversations the writer appears to have held, with every member of the executive council, must be considered as at least authorised by those gentlemen: certainly its decent exterior is well contrasted with the significant threats, and quaint remarks of the Spectator, who has also addressed the public against the governor, in your paper of the 25th.

Both these writers assume as a fact, that the original publication of a Civil Officer, in the Anti-Democrat, was the act of the governor. It is understood that when the letters of the governor and the council to the legislature, and some mutilated extracts from the proceedings of that body, had appeared in this and other papers, the governor was requested by a friend to commit to writing, the substance of his verbal address to the members of both houses; this was hastily done, but that it was substantially correct (which is all it professes to be) is fully established, by the evidence of the council themselves; and here the public will naturally reflect, that if the governor and council differ as to facts, known only to themselves, the governor is precluded from all testimony but his own, or that of his opponents: natural reason would reject either as conclusive, and it is only from a comparative view of both statements, that a satisfactory inference can be deduced. The facts and reasoning of the Civil Officer will, it is believed, be avowed by the governor, but as to its publication in the Anti-Democrat, (a prominent feature of accusation with both these writers,) it was no more the act of that officer, than it was the act of the Friend to Candour, or of his friend the Spectator—although it is now asserted from authority, that the governor had no intimation where the publication would appear, until he saw it in print; yet he must have then perceived the propriety of his friend's selection of that paper, and considered its insertion as a mark of candour in its editor; who had just before published an overflowing and virulent invective against him on the same subject. If other federal printers have republished the vindictive, they have certainly, not neglected the abuse; it is believed that they have never spared him; and in this solitary instance, their bitterest adversaries seem heartily disposed to join them.

It must, no doubt, be very amusing to this public officer, to be placed between two such fires; and to be bespattered by both parties: it is to be hoped that he regards it as it merits, and that it will not divert him from a full disclosure of every circumstance, that may enable the public to judge correctly of his own conduct and that of others; and aid the constituent authority in the decision of an important constitutional question.

The Friend to Candour has charged the Civil Officer with a misrepresentation of facts; or at least his statement is said to be materially variant from that of every member of the council—this is a serious accusation; but it will be recollected, that a general allegation, unsupported by evidence, is a stronger proof of malevolence than candour. It is now asked with confidence, has a single fact asserted by the Civil Officer, been yet publicly denied, either by the council, or the Friend to Candour? It is believed not. If the alleged variance, respects the proposed meeting of Saturday evening, let the letter written by the council, under the impression made by the recency of the transactions, be compared with the assertion of a Friend to Candour, that some of the council are positive that the governor proposed the adjournment himself; and it will be perceived that those gentlemen, vary more as to the fact, from each other, than they do from the governor. The following detail, asserted by that Officer to be correct, to the best of his recollection, may be tedious and is certainly unimportant, except as it tends to elucidate truth: The council had risen without one word being mentioned of a meeting in the evening; the governor was cloaked, and leaving the room, when one of the members observed in his hearing, that as he expected to leave town next morning, he wished a meeting in the evening; the governor returned towards the fire, entered into conversation on the subject, standing, and finally agreed conditionally to meet in the evening—the expectation of this member, to leave town next morning—the material circumstance relied on in the letter of the council, and now admitted by the Friend to Candour, as one of the motives for the evening session, must satisfactorily prove whence the proposition came—and that the assent of the governor was also conditional, must result from his admitted declaration of an intention, to converse with the two members of the legislature then nominated, such conversation could only from its nature be casual, and as its object would be decisive, it was

essential. Conscious, as he had since publicly declared himself, of a personal attachment to one of those members, and of a disposition favourable to the other, he could not apprehend that they would suspect him of a wish to wound the feelings or lessen the reputation of either; he might have candidly stated his own impressions, how awkward would be their feelings, and how uneasy those of the interested, if an appointment, which must support and protect the important and indispensable right of the state to grant the half toll, against the efforts of the Pennsylvania commissioners, instructed (as they must consider themselves) to deny and defeat that right, should be made of commissioners on the part of Maryland, of whom the majority were, openly and avowedly, as hostile to the half toll, as the Pennsylvanians themselves. Under these circumstances, and as dinner was to intervene, which generally at that season brings on the approach of night, the governor could hardly have expected an evening meeting at all; especially as there was no precedent of an adjournment of the council to meet in the evening since they had acted together; but certainly he could have felt no suspicion that so important an appointment would be precipitated; when a delay of six months could produce no inconvenience: if an appointment in the evening was considered as certain, to delay it in the morning was idle and absurd—and under every circumstance yet adduced, what possible knowledge could the governor have at the government house, of what was transacting at the state-house, nearly half a mile distant, without the intervention of some supernatural agency? With these reflections it is now submitted to an impartial public to decide, which party has been guilty of misrepresentation, in the instance examined. Questions relative to frank conduct, or even the palm of good breeding are perhaps immaterial, but those which respect common decency, must rest on the evidence which results from the transactions themselves.

Has it been denied that the governor early apprized the council of his construction of the constitution? No! on the contrary it is admitted: but the Friend to Candour states, that they also apprized him of their construction; not only by words but by deeds; for this writer who appears to have had frequent conversations with the council respecting the transactions even of the last year, himself states the degree of respect they paid the governor's construction; he tells us that they proceeded, notwithstanding his protest, to ballot for an officer; from this and all balloting, it must be known that the governor is excluded; of what avail then, it is asked, can the governor's concurrent right of nominating be, as it is termed by the council, if he cannot vote? If the person he nominates has little chance of obtaining even a single ballot, where the council nominate and ballot among themselves, the governor if discreet, will not expose himself to mortification; but keep his nomination to himself—and on a ballot, it may be asked, what becomes of that fundamental provision of the constitution, that the advice of each counsellor shall, if desired by the governor or a member, be entered on the journal? But this fact has been probably related to introduce the astonishment of the council that the governor on the Susquehanna appointment, refused to put the question on any nomination but his own. If the council really so informed the Friend to Candour, they were not serious; they were only amusing themselves with his credulity:—They must have recollected what the journals will prove, that as early as June last, they proceeded to consider him as absent, although present in the chair, and actually determined among themselves, without his putting the question, a subject confessedly without the line of their constitutional or legal authority.—They changed a legal order of the governor, authorised and directed by the militia law of 1793, into their request (a term ridiculous among military men) and ordered the clerk to copy the governor's letter verbatim in every other respect, and sign it himself as a circular, to all the lieutenant-colonels and other commandants of militia corps throughout the state; as this instance was not singular, and as they had appointed officers in his absence, as the Friend to Candour states, they could not have been really astonished when the governor refused to act contrary to his sense of duty and his oath of office; nor at a loss how to proceed after such precedents established by themselves.

It is a known fact, that soon after the qualification of the present governor, he had occasion to explain himself on an appointment to which he strongly objected, from his personal knowledge of the character; the appointment was ultimately effected, and on the close of the transaction he made a declaration, substantially to the following effect, that although he claimed no right to withhold a commission from a person constitutionally appointed, yet as he considered the appointment of all officers but one, vested expressly by the constitution, under certain restrictions; in himself, he would never sign a commission

again for a person appointed by the council, who from his own knowledge he believed to be an improper character; that in every other case he should endeavour to accommodate to their opinion, but that he would not knowingly and against his conscience violate his duty and his oath.—Whether it was from a belief that he would sacredly adhere to this resolution, or from his willingness to do the drudgery, or from a real conformity of opinion and a mutual wish to harmonise, it is certain that the governor was but little exposed to further mortifications on the subject until the appointment of the Susquehanna commissioners.

On that occasion his uniform expressions of attachment to members of the council, and respect for the commissioners nominated by them, ought to have shielded him from the suspicion of any other motive for his conduct, but that of an absolute sense of imperative duty and obligation: that conduct, however, according to the Spectator, has met the disapprobation of republicans, and he, as their organ, denounces vengeance against him. His authority is perhaps no better than his facts. As to the message to the senate now for the first time published, the governor must have understood this salvo, the equivocal offspring of consternation and despair; the entire history of these resolutions is prepared and may hereafter be submitted to the public by the Civil Officer; but this will be avoided unless rendered necessary.—At present a few of the misrepresentations of this writer will be noticed; in order to settle his character for accuracy. No. 1, he says the resolutions were proposed in the senate by Mr. Johnson, many years a counsellor, consequently well acquainted with the practice. The truth is, that Mr. Johnson was but two years a counsellor, out of the twenty-seven nearly elapsed since the constitution was adopted. No. 2, The resolution of the senate was rejected by every federal member.—The fact is, that Mr. Solomon Frazier and Mr. Swearingen, both federal members, voted for it. No. 3, Out of 29 republican members, 23 voted for it.—It is certain that excluding Mr. Swearingen and Mr. Frazier, only 21 could vote for it. No. 4, Instead of 29, there were actually but 28 members in the house of that party, and of Mr. Harwood, Mr. Hall, Mr. Carr, Mr. Van-Horn, Mr. Thompson, Mr. Lloyd, and Mr. Ridgely, who all voted against the resolution, whom does the Spectator, with his plenary authority, mean to exclude and denounce? All this in eight short lines is no bad specimen of the talents of this writer.

It is true the sword can always cut the Gordian knot, and power and precedent are effectual, though coarse refutations of fair as well as fine-spun argument; but if the rights of conscience and the sacred obligations imposed by the constitution and the solemn oath of the governor, are to bend before practice; be that practice what it may! as the Spectator contends, it should at least be certain what that practice is and how it may be ascertained; turning his back on the constitution and his oath, is he to seek it from former governors or former counsellors? If they communicate at all, and if they do not choose to tell, it might be difficult to compel them; it may happen and it actually does happen that they differ as to the practice; which of them then is to be believed? Perhaps there is no other point in which they all agree but that nothing like the conduct of the present council was ever practised before; all of them, it is believed, admit, that if the council met and the governor was absent, but in town and able to attend, they sent their messenger to inform him that the council was assembled, and requested his presence before they proceeded to business, and that frequently when he was unable to attend from indisposition, they met at his house. The idea, however, is perfectly new, that vague and oral tradition, which under the sanction of an oath in a court of justice could not counteract a common record, may control the constitution of the state.—Where then is this uniform practice (established and admitted from the adoption of the constitution according to the Spectator) to be found? Is it in the records of the proceedings of the council? Certainly not. During Mr. Johnson's time, who was the first governor after the adoption of the constitution, and when its framers were its officers, his name never appears entered on the journals with the members of the board.—The Friend to Candour terms the governor a member of the board, but the constitution calls him governor, and calls their members of a council to the governor, and not members of the executive council of Maryland. The constitution expressly vests all executive powers in that governor, to be exercised either with or without the concurrence, not the joint act of his council: It is true that the constitution by the 55th section, (from which the constitutive inference has been drawn to defeat its express and fundamental provisions) among his other functions, constitutes him president of the council when assembled to transact business; as this business is not their spe-